

FIRST REGULAR SESSION

SENATE BILL NO. 406

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 19, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1787S.02I

AN ACT

To repeal sections 195.070, 195.100, and 334.735, RSMo, and to enact in lieu thereof four new sections relating to physician assistants prescribing controlled substances.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 195.070, 195.100, and 334.735, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 195.070,
3 195.100, 334.735, and 334.747, to read as follows:

195.070. 1. A physician, podiatrist, dentist, [or] a registered optometrist
2 certified to administer pharmaceutical agents as provided in section 336.220,
3 RSMo, **or a physician assistant in accordance with section 334.747,**
4 **RSMo**, in good faith and in the course of his or her professional practice only,
5 may prescribe, administer, and dispense controlled substances or he or she may
6 cause the same to be administered or dispensed by an individual as authorized
7 by statute.

8 2. An advanced practice registered nurse, as defined in section 335.016,
9 RSMo, but not a certified registered nurse anesthetist as defined in subdivision
10 (8) of section 335.016, RSMo, who holds a certificate of controlled substance
11 prescriptive authority from the board of nursing under section 335.019, RSMo,
12 and who is delegated the authority to prescribe controlled substances under a
13 collaborative practice arrangement under section 334.104, RSMo, may prescribe
14 any controlled substances listed in Schedules III, IV, and V of section
15 195.017. However, no such certified advanced practice registered nurse shall
16 prescribe controlled substance for his or her own self or family. Schedule III
17 narcotic controlled substance prescriptions shall be limited to a one hundred

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 twenty-hour supply without refill.

19 3. A veterinarian, in good faith and in the course of [his] **the**
20 **veterinarian's** professional practice only, and not for use by a human being,
21 may prescribe, administer, and dispense controlled substances and [he] **the**
22 **veterinarian** may cause them to be administered by an assistant or orderly
23 under his **or her** direction and supervision.

24 4. A practitioner shall not accept any portion of a controlled substance
25 unused by a patient, for any reason, if such practitioner did not originally
26 dispense the drug.

27 5. An individual practitioner [may] **shall** not prescribe or dispense a
28 controlled substance for such practitioner's personal use except in a medical
29 emergency.

195.100. 1. It shall be unlawful to distribute any controlled substance in
2 a commercial container unless such container bears a label containing an
3 identifying symbol for such substance in accordance with federal laws.

4 2. It shall be unlawful for any manufacturer of any controlled substance
5 to distribute such substance unless the labeling thereof conforms to the
6 requirements of federal law and contains the identifying symbol required in
7 subsection 1 of this section.

8 3. The label of a controlled substance in Schedule II, III or IV shall, when
9 dispensed to or for a patient, contain a clear, concise warning that it is a criminal
10 offense to transfer such narcotic or dangerous drug to any person other than the
11 patient.

12 4. Whenever a manufacturer sells or dispenses a controlled substance and
13 whenever a wholesaler sells or dispenses a controlled substance in a package
14 prepared by him **or her**, [he] **the manufacturer or wholesaler** shall securely
15 affix to each package in which that drug is contained a label showing in legible
16 English the name and address of the vendor and the quantity, kind, and form of
17 controlled substance contained therein. No person except a pharmacist for the
18 purpose of filling a prescription under sections 195.005 to 195.425, shall alter,
19 deface, or remove any label so affixed.

20 5. Whenever a pharmacist or practitioner sells or dispenses any controlled
21 substance on a prescription issued by a physician, **physician assistant**, dentist,
22 podiatrist, veterinarian, or advanced practice registered nurse, [he] **the**
23 **pharmacist or practitioner** shall affix to the container in which such drug is
24 sold or dispensed a label showing his **or her** own name and address of the

25 pharmacy or practitioner for whom he **or she** is lawfully acting; the name of the
26 patient or, if the patient is an animal, the name of the owner of the animal and
27 the species of the animal; the name of the physician, **physician assistant**,
28 dentist, podiatrist, advanced practice registered nurse, or veterinarian by whom
29 the prescription was written; the name of the collaborating physician if the
30 prescription is written by an advanced practice registered nurse **or the**
31 **supervising physician if the prescription is written by a physician**
32 **assistant**, and such directions as may be stated on the prescription. No person
33 shall alter, deface, or remove any label so affixed.

334.735. 1. As used in sections 334.735 to 334.749, the following terms
2 mean:

3 (1) "Applicant", any individual who seeks to become licensed as a
4 physician assistant;

5 (2) "Certification" or "registration", a process by a certifying entity that
6 grants recognition to applicants meeting predetermined qualifications specified
7 by such certifying entity;

8 (3) "Certifying entity", the nongovernmental agency or association which
9 certifies or registers individuals who have completed academic and training
10 requirements;

11 (4) "Department", the department of insurance, financial institutions and
12 professional registration or a designated agency thereof;

13 (5) "License", a document issued to an applicant by the board
14 acknowledging that the applicant is entitled to practice as a physician assistant;

15 (6) "Physician assistant", a person who has graduated from a physician
16 assistant program accredited by the American Medical Association's Committee
17 on Allied Health Education and Accreditation or by its successor agency, who has
18 passed the certifying examination administered by the National Commission on
19 Certification of Physician Assistants and has active certification by the National
20 Commission on Certification of Physician Assistants who provides health care
21 services delegated by a licensed physician[. A person], **or** who has been
22 employed as a physician assistant for three years prior to August 28, 1989, who
23 has passed the National Commission on Certification of Physician Assistants
24 examination, and has active certification of the National Commission on
25 Certification of Physician Assistants;

26 (7) "Recognition", the formal process of becoming a certifying entity as
27 required by the provisions of sections 334.735 to 334.749;

28 (8) "Supervision", control exercised over a physician assistant working
29 within the same facility as the supervising physician sixty-six percent of the time
30 a physician assistant provides patient care, except a physician assistant may
31 make follow-up patient examinations in hospitals, nursing homes, patient homes,
32 and correctional facilities, each such examination being reviewed, approved and
33 signed by the supervising physician, except as provided by subsection 2 of this
34 section. For the purposes of this section, the percentage of time a physician
35 assistant provides patient care with the supervising physician on-site shall be
36 measured each calendar quarter. The supervising physician must be readily
37 available in person or via telecommunication during the time the physician
38 assistant is providing patient care. The board shall promulgate rules pursuant
39 to chapter 536, RSMo, for documentation of joint review of the physician assistant
40 activity by the supervising physician and the physician assistant. The physician
41 assistant shall be limited to practice at locations where the supervising physician
42 is no further than thirty miles by road using the most direct route available, or
43 in any other fashion so distanced as to create an impediment to effective
44 intervention and supervision of patient care or adequate review of services. Any
45 other provisions of this chapter notwithstanding, for up to ninety days following
46 the effective date of rules promulgated by the board to establish the waiver
47 process under subsection 2 of this section, any physician assistant practicing in
48 a health professional shortage area as of April 1, 2007, shall be allowed to
49 practice under the on-site requirements stipulated by the supervising physician
50 on the supervising physician form that was in effect on April 1, 2007.

51 2. The board shall promulgate rules under chapter 536, RSMo, to direct
52 the advisory commission on physician assistants to establish a formal waiver
53 mechanism by which an individual physician-physician assistant team may apply
54 for alternate minimum amounts of on-site supervision and maximum distance
55 from the supervising physician. After review of an application for a waiver, the
56 advisory commission on physician assistants shall present its recommendation to
57 the board for its advice and consent on the approval or denial of the
58 application. The rule shall establish a process by which the public is invited to
59 comment on the application for a waiver, and shall specify that a waiver may only
60 be granted if a supervising physician and physician assistant demonstrate to the
61 board's satisfaction in accordance with its uniformly applied criteria that:

62 (1) Adequate supervision will be provided by the physician for the
63 physician assistant, given the physician assistant's training and experience and

64 the acuity of patient conditions normally treated in the clinical setting;

65 (2) The physician assistant shall be limited to practice at locations where
66 the supervising physician is no further than fifty miles by road using the most
67 direct route available, or in any other fashion so distanced as to create an
68 impediment to effective intervention and supervision of patient care or adequate
69 review of services;

70 (3) The community or communities served by the supervising physician
71 and physician assistant would experience reduced access to health care services
72 in the absence of a waiver; and

73 (4) The applicant will practice in an area designated at the time of
74 application as a health professional shortage area;

75 (5) Nothing in this section shall be construed to require a
76 physician-physician assistant team to increase their on-site requirement allowed
77 in their initial waiver in order to qualify for renewal of such waiver.

78 3. The scope of practice of a physician assistant shall consist only of the
79 following services and procedures:

80 (1) Taking patient histories;

81 (2) Performing physical examinations of a patient;

82 (3) Performing or assisting in the performance of routine office laboratory
83 and patient screening procedures;

84 (4) Performing routine therapeutic procedures;

85 (5) Recording diagnostic impressions and evaluating situations calling for
86 attention of a physician to institute treatment procedures;

87 (6) Instructing and counseling patients regarding mental and physical
88 health using procedures reviewed and approved by a licensed physician;

89 (7) Assisting the supervising physician in institutional settings, including
90 reviewing of treatment plans, ordering of tests and diagnostic laboratory and
91 radiological services, and ordering of therapies, using procedures reviewed and
92 approved by a licensed physician;

93 (8) Assisting in surgery;

94 (9) Performing such other tasks not prohibited by law under the
95 supervision of a licensed physician as the physician's assistant has been trained
96 and is proficient to perform;

97 (10) Physician assistants shall not perform abortions.

98 4. Physician assistants shall not prescribe nor dispense any drug,
99 medicine, device or therapy independent of consultation with the supervising

100 physician, nor prescribe lenses, prisms or contact lenses for the aid, relief or
101 correction of vision or the measurement of visual power or visual efficiency of the
102 human eye, nor administer or monitor general or regional block anesthesia during
103 diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing of
104 drugs, medications, devices or therapies by a physician assistant shall be
105 pursuant to a physician assistant supervision agreement which is specific to the
106 clinical conditions treated by the supervising physician and the physician
107 assistant shall be subject to the following:

108 (1) A physician assistant shall [not] **only** prescribe controlled substances
109 **in accordance with section 334.747;**

110 (2) The types of drugs, medications, devices or therapies prescribed or
111 dispensed by a physician assistant shall be consistent with the scopes of practice
112 of the physician assistant and the supervising physician;

113 (3) All prescriptions shall conform with state and federal laws and
114 regulations and shall include the name, address and telephone number of the
115 physician assistant and the supervising physician;

116 (4) A physician assistant or advanced practice nurse as defined in section
117 335.016, RSMo, may request, receive and sign for noncontrolled professional
118 samples and may distribute professional samples to patients;

119 (5) A physician assistant shall not prescribe any drugs, medicines, devices
120 or therapies the supervising physician is not qualified or authorized to prescribe;
121 and

122 (6) A physician assistant may only dispense starter doses of medication
123 to cover a period of time for seventy-two hours or less.

124 5. A physician assistant shall clearly identify himself or herself as a
125 physician assistant and shall not use or permit to be used in the physician
126 assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out
127 in any way to be a physician or surgeon. No physician assistant shall practice or
128 attempt to practice without physician supervision or in any location where the
129 supervising physician is not immediately available for consultation, assistance
130 and intervention, except as otherwise provided in this section, and in an
131 emergency situation, nor shall any physician assistant bill a patient
132 independently or directly for any services or procedure by the physician assistant.

133 6. For purposes of this section, the licensing of physician assistants shall
134 take place within processes established by the state board of registration for the
135 healing arts through rule and regulation. The board of healing arts is authorized

136 to establish rules pursuant to chapter 536, RSMo, establishing licensing and
137 renewal procedures, supervision, supervision agreements, fees, and addressing
138 such other matters as are necessary to protect the public and discipline the
139 profession. An application for licensing may be denied or the license of a
140 physician assistant may be suspended or revoked by the board in the same
141 manner and for violation of the standards as set forth by section 334.100, or such
142 other standards of conduct set by the board by rule or regulation. Persons
143 licensed pursuant to the provisions of chapter 335, RSMo, shall not be required
144 to be licensed as physician assistants. All applicants for physician assistant
145 licensure who complete a physician assistant training program after January 1,
146 2008, shall have a master's degree from a physician assistant program.

147 7. "Physician assistant supervision agreement" means a written
148 agreement, jointly agreed-upon protocols or standing order between a supervising
149 physician and a physician assistant, which provides for the delegation of health
150 care services from a supervising physician to a physician assistant and the review
151 of such services.

152 8. When a physician assistant supervision agreement is utilized to provide
153 health care services for conditions other than acute self-limited or well-defined
154 problems, the supervising physician or other physician designated in the
155 supervision agreement shall see the patient for evaluation and approve or
156 formulate the plan of treatment for new or significantly changed conditions as
157 soon as practical, but in no case more than two weeks after the patient has been
158 seen by the physician assistant.

159 9. At all times the physician is responsible for the oversight of the
160 activities of, and accepts responsibility for, health care services rendered by the
161 physician assistant.

162 10. It is the responsibility of the supervising physician to determine and
163 document the completion of at least a one-month period of time during which the
164 licensed physician assistant shall practice with a supervising physician
165 continuously present before practicing in a setting where a supervising physician
166 is not continuously present.

167 11. No contract or other agreement shall require a physician to act as a
168 supervising physician for a physician assistant against the physician's will. A
169 physician shall have the right to refuse to act as a supervising physician, without
170 penalty, for a particular physician assistant. No contract or other agreement
171 shall limit the supervising physician's ultimate authority over any protocols or

standing orders or in the delegation of the physician's authority to any physician assistant, but this requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by the hospital's medical staff.

12. Physician assistants shall file with the board a copy of their supervising physician form.

13. No physician shall be designated to serve as supervising physician for more than three full-time equivalent licensed physician assistants. This limitation shall not apply to physician assistant agreements of hospital employees providing inpatient care service in hospitals as defined in chapter 197, RSMo.

334.747. 1. A physician assistant with a certificate of controlled substance prescriptive authority as provided in this section may prescribe any controlled substance listed in schedule III, IV, or V of section 195.017, RSMo, when delegated the authority to prescribe controlled substances in a supervision agreement. Such authority shall be listed on the supervision verification form on file with the state board of healing arts. The supervising physician shall maintain the right to limit a specific scheduled drug or scheduled drug category that the physician assistant is permitted to prescribe. Any limitations shall be listed on the supervision form. Physician assistants shall not prescribe controlled substances for themselves or members of their families. Schedule III controlled substances shall be limited to a five-day supply without refill. Physician assistants who are authorized to prescribe controlled substances under this section shall register with the federal Drug Enforcement Administration and the department of health and senior services, and shall include such registration numbers on prescriptions for controlled substances.

2. A physician assistant shall receive a certificate of controlled substance prescriptive authority from the board of healing arts upon verifying the successful completion of the following educational requirements:

(1) An advanced pharmacology course that shall include clinical training in the prescription of drugs, medicines, and therapeutic devices. A course or courses with advanced pharmacological content in a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor agency shall satisfy this requirement;

28 **(2) A minimum of three hundred hours of clinical training in the**
29 **prescription of drugs, medicines, and therapeutic devices; and**

30 **(3) A minimum of one year of supervised clinical practice or**
31 **supervised clinical rotations. One year of clinical rotations in a**
32 **program accredited by the Accreditation Review Commission on**
33 **Education for the Physician Assistant or by its predecessor, which**
34 **includes pharmacotherapeutics as a component of its clinical training,**
35 **shall satisfy this requirement. Proof of this training shall serve to**
36 **document experience in the prescribing of drugs, medicines, and**
37 **therapeutic devices.**

38 **3. A physician assistant previously licensed in a jurisdiction**
39 **where physician assistants are authorized to prescribe controlled**
40 **substances may obtain registration from the department of health and**
41 **senior services if a supervising physician can attest that the physician**
42 **assistant has met the requirements of subsection 2 of this section and**
43 **the physician assistant provides documentation of existing federal Drug**
44 **Enforcement Agency registration.**

45 **4. Except for physician assistants working at public health**
46 **clinics providing population-based public health services as defined by**
47 **20 CSR 2150-5.100 as of April 30, 2009, if the physician assistant will**
48 **prescribe controlled substances when the supervising physician is not**
49 **onsite, the supervising physician shall document that the physician**
50 **assistant has practiced at least one hundred and twenty hours with the**
51 **supervising physician onsite. This one hundred and twenty hours may**
52 **be concurrent with the training required by subdivision (2) of**
53 **subsection 2 of this section.**

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